

RÉSUMÉ DIGEST

HB 953

2022 Regular Session

Seabaugh

Present law provides that government shall not substantially burden a person's exercise of religion.

Present law provides an exception for when the burden on the exercise of religion is both in furtherance of a compelling governmental interest and is the least restrictive means of furthering the compelling governmental interest.

Proposed law would have provided that the government shall provide protections of the highest order to every church, synagogue, temple, or other place of worship and shall not discriminate against any church, synagogue, temple, or other place of worship by requiring restrictions that are greater than the least severe restrictions that are imposed upon or enforced against any secular business, service, or assembly.

(Proposed to amend R.S. 13:5233)

VETO MESSAGE:

"Please allow this letter to inform you that I have vetoed House Bill 953 of the 2022 Regular Session.

This bill purports to provide for further protection of the free exercise of religion by requiring that the government "shall not discriminate against any church, synagogue, temple, or other place of worship by requiring restrictions that are greater than the least severe restrictions that are imposed upon or enforced against any secular business, service, or assembly." While this is a laudable goal, the consequences of this, though perhaps unintended, would be significant. As an example, should a mayor or parish president order a mandatory evacuation because of a natural disaster, or something as catastrophic as an incident at a nuclear facility, the order would be required to allow churches to meet for church services if emergency service providers, such as police stations and hospitals, are kept open. For that matter, if gas stations remained open for evacuees to obtain emergency fuel, all churches would remain open for services without limitation. While churches are indeed essential, in the event of an emergency, we should not equate the meeting of a church congregation with the need to keep an emergency room open.

Further, this requirement would have consequences even outside of an emergency. The bill would require churches to be treated equally with any other business or organization no matter the circumstances. Thus, occupancy limits and life-saving measures that apply to places of worship, even in the case of new construction, could not be more restrictive or onerous than that in place for *any* secular business no matter the size or age of the building. Taken to the extreme, but if applied literally, the bill could require a church, for capacity set by a fire marshal, to be on par with the Louisiana Superdome. Also, the bill's language would arguably apply to religious day care centers, soup kitchens, schools and other venues owned or operated by religious organizations. For example, if a restaurant is not required to obtain a license because it is grandfathered because of a long existence, might this require a church soup kitchen to be exempted from the same requirement? Would a parochial school receiving public funds now be able to disregard the requirements of *Brumfield v. Dodd*, prohibiting a nonpublic school that receives public funding from having racially discriminatory practices, if there is any another private school in the state that does not receive public funding and maintains racially discriminatory practices? There are simply far too many questions to answer before this bill should become law.

The United States Supreme Court has held that government regulations burdening religious exercise must survive strict scrutiny and thus must be narrowly tailored to achieve to a compelling governmental interest. Under this standard, regulations of religious activity will not survive if they treat any comparable secular activity more favorably than religious activities. This clear requirement provides for the clear and undeniable protections for the free exercise of religion. This bill would go far beyond what the Supreme Court has required, as a regulation would fail under this bill if it treats *any* business or entity differently than religious organizations, not just *comparable* entities. This would lead to unfair, and, in the case of emergencies, a potential danger to the public.

Anyone who knows me cannot question the importance of my faith to my life. I believe in the power of prayer and the importance of gathering together to celebrate church services. I do not believe, however, that we should create a circumstance that puts churches and congregations in harm's way in times of an emergency. For these reasons, I have vetoed House Bill 953."